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OFFICE OF PETITIONS

In re Application of
Stephan Blicher, et al.
Application No. 10/570,557
Filed: March 12, 2007
Attorney Docket No. 0740-78

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 14, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply required for reconsideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). An advisory Action is attached to this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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By hand: U. S. Patent and Trademark Office
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The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.


April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/570,557	Applicant(s) BLICKER ET AL.	
	Examiner ANKUR JAIN	Art Unit 2618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Yuwen Pan/
Primary Examiner, Art Unit 2618

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed November 15th, 2010 have been fully considered but they are still NOT persuasive.

The Examiner respectfully submits that Maggenti teaches "a method of operating push-to-talk communication between a group of members of an existing push-to-talk communication session within a first communication network operated by a first network operator using a Push-to-Talk over a communication system (PoC) application server" (see Paragraph 0042 and Figure 1). "Existing push-to-talk communication session...by a first network operator...using a Push-to-Talk over a communication system (PoC) application server" reads on the mobile switching center (MSC) 28, where both the "first network operator" and "Push-to-Talk over a communication system (PoC) application server" read on the mobile switching center (MSC) 28. "A group of members of an existing push-to-talk communication session" reads on CDs 12, 14, and 16. Maggenti also teaches "a group of at least one member of an additional communication network operated by a second network operator, using a Push-to-Talk over a communication system (PoC) application server" (see Paragraph 0035, 0036, 0043, and Figures 1 and 2). "Second network operator" and "Push-to-Talk over a communication system (PoC) application server" both read on the communications manager (CM) 18. "A group of at least one member of an additional communication network" reads on the net the CM 18 transmits information to, similar to CD 112 and CD 116 of Figure 2. Maggenti also teaches "connecting the additional group to the existing group of the session for push-to-talk communication" (see Paragraphs 0041 through 0043, and Figure 1). The claim limitation reads on using the distributed network 26 for "connecting" the MSC 28 with CM 18 when a PTT transmission request is received from a communication device, such as CD 108 in Figure 2. Maggenti also teaches "the group members of the additional network are known to both operators and the group members of the existing group are known to the first operator but not to the second operator" (see Paragraphs 0052 and 0054, and Figures 1 and 2). "Known to both operators" reads on the NBS media signaling 124 which is sent to the "first network operator," which then gets bypassed through the "second network operator," and ultimately to the "group members of the additional network." The reverse process also occurs, and thus according to this chain of events, "the group members of the additional network are known to both operators." Also, according to Figures 1 and 2, "the group members of the existing group are known to the first operator" reads on how media traffic 128 gets directly transmitted to the "first network operator," or MSC 28. "The existing group not known to the second operator" reads on how specific media traffic 128 containing information directed towards "group members of the additional network" is only one-way from the "existing group member" to the "group members of the additional network." Since media traffic 128 is only one-way, the "second operator does not know about the existing group," since the "group members of the additional network" cannot go against the one-way communication to provide specific information directed towards the "group members of the existing group." Maggenti does not teach "synchronizing the existing server to an additional server." However, Bensimon generally teaches "synchronizing the existing server to an additional server" (see Abstract, Paragraph 0021, and Figure 1). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Maggenti with the above mentioned limitations as taught by Bensimon, for the purpose of enhancing and increasing system efficiency by introducing the concept of synchronization and by making a connection between the additional server and the existing server.